

Vol. XLVI

THE CHANCERY COURT
DAVIDSON COUNTY, TENNESSEE

HONORABLE ELLEN HOBBS LYLE, CHANCELLOR

MARIA M. SALAS, CLERK AND MASTER

ABU-ALI-ABDUR'RAHMAN, ET AL
Plaintiffs/Appellants

FILED

AUG 22 2018

Clerk of the Appellate Courts
Rec'd By _____

VOLUME 23 of 28

CERTIFIED
TRANSCRIPT
OF
Cause

Appearance No. 18-183-III
CHANCERY COURT

Vs

No. M2018-01385-SC-RDO-CV

SUPREME COURT

TRANSMITTED ON:

August 21, 2018

Execution No.
SUPREME COURT

APPEALED
TO
Next Term,
20

TONY PARKER, IN HIS OFFICIAL CAPACITY AS TENNESSEE COMMISSIONER OF
CORRECTION, ET AL
Defendants/Appellees

Trial Transcript from July 18, 2018
Pages 2098 - 2205

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1 label -- I'm sorry. I skipped a section from
2 Warner.

3 You also testified in Warner that a
4 toxic dose of Midazolam, it would take about
5 20 minutes for the person who had ingested a
6 toxic dose to stop breathing.

7 Was that your testimony in Warner?

8 A. May have been.

9 Q. Let's go to the issue of coma. Before
10 we do that, maybe the issue of pain. I want
11 to talk with you a little bit, Dr. Evans,
12 about Midazolam and pain. Okay?

13 A. Sure.

14 Q. Midazolam is not an analgesic, is it?

15 A. It is not.

16 Q. And, in fact, you testified to that in
17 2014 in the Howell case, did you not?

18 A. I don't recall.

19 Q. And then you changed your testimony --

20 MR. SUTHERLAND: Your Honor, if
21 she's going to ask questions --

22 THE COURT: Yes. You need direct
23 references.

24 MR. SUTHERLAND: Direct
25 references in presenting the information

1 asserted.

2 MS. HENRY: Sorry, Your Honor.

3 I'm trying to get smooth transitions. I'll
4 be slow.

5 BY MS. HENRY:

6 Q. I'm showing you, sir, a transcript
7 from the case of the State of Florida versus
8 Paul Augustus Howell.

9 Do you see that there?

10 A. Yes.

11 Q. Do you see it's dated February 11th,
12 2014?

13 A. Yes.

14 Q. And that was one of the cases in
15 Florida you testified about, correct?

16 A. Yes.

17 Q. I'm going back to establish when you
18 testified that there was no pain. So on Page
19 151, Line 19, So has nothing to do with pain?
20 And your answer at Line 20 is no. Line 21,
21 So the fact that you compare Midazolam with
22 opioid that has pain-suppressing qualities
23 has nothing to do with it? Answer, At
24 therapy level, I think you want a therapeutic
25 use of Midazolam and you'd want to see

1 something else.

2 A. Yes.

3 Q. I'm sorry. I lost my place.

4 So then you stated -- we'll go through
5 the testimony.

6 If we're talking about inducing,
7 that's not necessary for -- okay. But in
8 typical practice, you never used Midazolam
9 alone because it doesn't have any
10 pain-relieving properties, correct?

11 A. Correct.

12 Q. Not in therapeutic doses? No. And it
13 doesn't have any analgesic or pain-relieving
14 properties at any level, does it?

15 Answer, Well, in actuality there's
16 evidence that would suggest that Midazolam
17 has been effectively used for its analgesic
18 properties in lower back pain.

19 Line 13, But when we start talking
20 about general surgical procedures, this drug
21 would not be my choice to use by itself.

22 Line 15, Now, in the Chavez testimony,
23 you remember that you testified, correct?

24 Answer, yes. Question, You testified in that
25 case that Midazolam has absolutely no

1 pain-relieving properties. Are you changing
2 your testimony?

3 Answer, Line 21, Well, yes, because I
4 did have a chance to do more digging.

5 That was your answer, sir?

6 A. Yes.

7 Q. And then just now I asked you if
8 Midazolam had any analgesic properties and
9 you testified that it does not, correct?

10 A. I did.

11 Q. So you did more digging since Howell,
12 correct?

13 A. Yes.

14 Q. Well, in fact --

15 MR. SUTHERLAND: Can he speak?

16 THE COURT: Well, I couldn't tell
17 if he had something else to answer. She
18 asked if he had done a little more digging.
19 He said yes.

20 Was there something else you
21 wanted to answer on that, Dr. Evans?

22 THE WITNESS: Yes. There is some
23 pretty hypothetical information that very
24 high doses of this drug may have analgesic
25 effects. I think that's -- so in some

1 respects, I have been willing to make that an
2 issue because it is so hypothetical.

3 THE COURT: I'm going to strike
4 that answer. Because when you provide an
5 explanation, it has to relate to the
6 question. So the question was did you do
7 more digging. You said yes. What was the
8 digging? Were there articles, talking to
9 people, how many, what were they, et cetera
10 so I can judge, assess how much weight and
11 whether this is credible or not.

12 When you explain the answer to
13 the question, it has to relate to the
14 question. So it's got to relate to the
15 digging.

16 So is there anything you want to
17 tell me about? You did a little more
18 digging. What was the digging that you did?

19 THE WITNESS: Digging was
20 research.

21 THE COURT: Into what?

22 THE WITNESS: Into additional
23 effects of the Midazolam.

24 THE COURT: And what did you
25 research? Where did you find this?

1 THE WITNESS: Your Honor, I don't
2 remember the journal, but it was in a
3 journal.

4 THE COURT: It was in a journal.

5 THE WITNESS: Yes.

6 THE COURT: Was that the
7 explanation about the digging that you wanted
8 to provide?

9 THE WITNESS: Yes.

10 THE COURT: All right. Next
11 question.

12 BY MS. HENRY:

13 Q. In your declaration for this case, Dr.
14 Evans, you cite the Coll-Vincent article that
15 was discussed on direct-examination as proof
16 that Midazolam is used in cardioversion as a
17 sole anesthetic agent, correct?

18 A. Yes.

19 Q. And you also cite the Parlack article
20 from 2006, correct?

21 A. I did.

22 Q. The Parlack article in actuality says
23 that they used -- the study in that case used
24 Fentanyl along with Midazolam; isn't that
25 correct?

1 A. Yes.

2 Q. In the Coll-Vincent article, I pointed
3 out to you in your deposition the protocol
4 called for the anesthesiologist to administer
5 the drugs that he would normally use in his
6 or her standard practice, which we
7 established is Fentanyl along with the
8 Midazolam for cardioversion, correct?

9 A. And I disagree.

10 Q. You disagree with me?

11 A. Right.

12 Q. So let's take a look at the article.
13 I believe it's already in evidence as Exhibit
14 143.

15 THE COURT: Exhibit 143, you
16 should have it. Do you have that, Dr. Evans?

17 THE WITNESS: I do. Should have.
18 Here it is.

19 BY MS. HENRY:

20 Q. And if you look, sir, at Page 768,
21 second column, first full paragraph beginning
22 with cardioversions, and the whole paragraph
23 states, Cardioversions were performed in a
24 room with the equipment necessary for
25 cardioversion and for emergency